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SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION

Ex Parte No. 582 (Sub-No. 1)

MAJOR RAIL CONSOLIDATIONS PROCEDURES

ENTERED
Office of the Secretary

NOV 17 2000

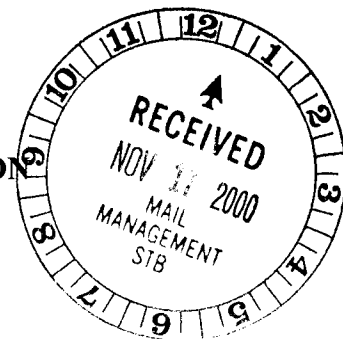
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WRITTEN COMMENTS SUBMITTED BY
THE STATE OF OREGON
THROUGH ITS
DEPARTMENT OF TRANSPORTATION

**Communications with respect
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INTRODUCTION

My name is Claudia L. Howells, Manager of the Oregon Department of Transportation's Rail Division. I am authorized to submit this Verified Statement on behalf of the State of Oregon (Oregon) and the Oregon Department of Transportation (ODOT). ODOT has been designated by John Kitzhaber, M.D., Governor of Oregon, and Oregon Statute, to represent shippers, port districts, local governments and the public generally in this proceeding.

I have been employed by ODOT since January 1, 1996. I was previously employed, with the same responsibilities, by the Oregon Public Utility Commission for 11 years. I have participated in numerous proceedings before the Interstate Commerce Commission and the Surface Transportation Board.

These comments are in response to Notice of Proposed Rulemaking regarding Major Rail Consolidations. The State of Oregon and its Department of Transportation laud the Surface Transportation Board for its extraordinary efforts in revising its rules

related to major railroad mergers. We believe that the Board understands the changed nature of the railroad industry, that it recognizes the railroad industry's place within the nation's transportation system and that it supports the need for balance between the railroad industry and its customers. The new rules will do a great deal to better balance America's transportation system.

COMMENTS

ODOT is currently in the process of updating its Freight and Passenger Rail Plans. As part of that process, we have surveyed Oregon rail customers regarding rail service, and are attempting to quantify the effects of recent rail mergers on Oregon producers. As we have stated in many earlier proceedings, Oregon producers rely on rail service to keep Oregon products competitive in both national and international markets. The Port of Portland relies on both inbound and outbound rail traffic as it grows its international business. The nature of Oregon's rail system has changed dramatically in recent years, with now over half the track miles operated by short line railroads and 60 percent of Oregon producers served by short lines. All of the recent railroad consolidations have had major impact on the Oregon economy, and not for the better. Out of the many surveyed only 2 percent indicated a positive result from the major mergers. While almost all agreed that the direct carrier, generally a short line, is providing excellent service, service on the Class I railroads is still poorer than it was prior to the rail consolidations. What is of particular significance, is that even with current rail service being improved, the railroads have continued to lose market share to the trucking industry, particularly for outbound shipments. Clearly, commitments made to Oregon public officials that the mergers would "take trucks off the highways" were empty, at best.

Within that context, we have reviewed the proposed rules and we generally support the changes. We are very supportive of the new merger policy statement. We would emphasize that the rail industry, in our opinion, is long past the need to eliminate excess capacity and that, in fact, the rail industry, should it choose, can position itself to compete for traffic now on other parts of the transportation system. Railroads can expand capacity more economically and more easily than any other part of the system.

We have one concern about the wording of one subsection, Proposed 1180.1(c)(2). The term "essential service," in our opinion is problematic. Interpreted strictly, very little rail service is actually "essential." How do we define "public need" and "adequate alternative transportation."? Because Oregon is in the process of rebuilding its passenger rail service, this is of particular concern to us. We would not like to think that new passenger rail service is not essential until Interstate 5, from Eugene to Portland, is in complete gridlock and that no air service is available. Furthermore, there is actually very little freight that cannot move by truck. Without some clear definitions of "essential," we would suggest that the following wording replace the first three sentences of that subsection.

"Harm to service opportunities. The board must ensure that freight, passenger, and commuter rail service opportunities are preserved. Existing service and future opportunities should demonstrate public need and an over-all benefit to the transportation system." Delete third sentence.

CONCLUSION

In closing, we reiterated our strong support for the proposed changes and commend the Board and its staff for very fine work. We are fully aware of your challenges. We are so impressed, we would suggest that the Board take a similar review of its rules on abandonments and "minor" acquisitions. As the short line industry has consolidated, we risk facing circumstances not unlike what we faced in the 1980's. For states like Oregon, dependent as we are on short lines, this is of major concern.

Respectfully submitted,

Claudia L. Howells
Manager, Rail Division
Oregon Department of Transportation
November 16, 2000

Cc: All Parties of Record on Service List